



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,034	11/21/2001	Erich Viechter	536733	9841

7590 12/07/2004  
Thomas Langer, Esq.  
Cohen, Pontani, Lieberman & Pavane  
551 Fifth Avenue, Suite 1210  
New York, NY 10176

EXAMINER

REID, CHERYL M

ART UNIT PAPER NUMBER

2142

DATE MAILED: 12/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/989,034

**Applicant(s)**

VIECHTER, ERICH

**Examiner**

Cheryl M. Reid

**Art Unit**

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Specification***

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Communication system with message forwarding capabilities.

2. Applicant is informed that the specification contains a minor informality. On Page 1, Paragraph 3, line 2, applicant has "a different means if communication." Examiner is assuming that applicant intended to write "a different means of communication," Proper correction is required.

3. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119(e) as follows: An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence of the specification or in an application data sheet (37 CFR 1.78(a)(2) and (a)(5)). The specific reference to any prior nonprovisional application must include the relationship (i.e., continuation, divisional, or continuation-in-part) between the applications except when the reference is to a prior application of a CPA assigned the same application number.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Satomi.

**Claim 1**

- Satomi teaches of a communication unit with, a memory for storing data of possible communication partners, a connecting device for establishing communication connections with a communication partner using different means of communication (Col 2, lines 55-60); a control unit for triggering the connecting device (Col 2, lines 48-50) ; establish a communication connection by using data that is stored in the memory and/or that can be entered manually (Col 3, lines 9-11); if establishing the connection failed, the control unit triggers the connecting device in such a way that a communication connection is established using another means of communication (Col 1, lines 53-58).

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Satomi as applied to claim 1 above, and further in view of Ogle.

**Claim 2**

- Ogle teaches of text messages can be stored in the memory that can be forwarded (Fig 4, Col 2, lines 47-52, Col 9, lines 39-41). Ogle's invention relates to a communication system that enables messages to be delivered using alternative message delivery mechanisms. (Col 1, lines 1-4). Satomi invention relates to a network communication system that uses a different communication lines in the event of a communication lines failure (Col 1, lines 10-14). Adding the above mentioned feature to Satomi's invention would allow his system to deliver messages if no one was

available at the first or initial destination, thus resulting in a more efficient system. It is for this reason that one of ordinary skill at the time of invention would have been motivated to make the above-mentioned modifications.

8. Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Satomi as applied to claim 1 above, and further in view of Krishnan.

**Claim 3**

- Satomi is silent in regards to means of communication can be assigned priority levels. Krishnan teaches on this aspect. (Col 2, lines 7-9). Krishnan's invention relates to a communication system that forwards calls in the event that the recipient is not available at the first or initial location (Col 1, lines 43-55). Satomi invention relates to a network communication system that uses a different communication lines in the event of a communication lines failure (Col 1, lines 10-14). Adding the above mentioned feature to Satomi's invention would allow his system to attempt to deliver messages to the next likely location of the user, if no one was available at the first or initial destination, thus resulting in a more efficient system. It is for this reason that one of ordinary skill at the time of

invention would have been motivated to make the above-mentioned modifications.

**Claim 4**

- Satomi is silent in regards to the selection of the means of communication can be influenced by way of user specifications. Krishnan teaches on this aspect. (Col 1, lines 44-46). One of ordinary skill in the art would be motivated at the time of invention to made the above mentioned modifications for the same reason discussed in claim 3.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl M. Reid whose telephone number is 571 272 3903. The examiner can normally be reached on Mon- Fri (7-3:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Harvey can be reached on (571)272-3896. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2142

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cmr

  
JACK B. HARVEY  
SUPERVISORY PATENT EXAMINER